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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/822,136

03/30/2001

Vincent T. Kozyrski

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08/28/2006

O'SHEA, GETZ & KOSAKOWSKI, P.C.

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SUITE 912

SPRINGFIELD, MA 01115

EXAMINER

PRONE, JASON D

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 08/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/822,136	KOZYRSKI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jason Prone	3724	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13 and 33-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13 and 33-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Double Patenting***

1. Claims 34 and 35 are objected to under 37 CFR 1.75 as being a substantial duplicate of claim 33. When claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 33-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Belcourt (4,733,472).

In regards to claims 33-35, Belcourt discloses the same invention including a hand-held rotary cutter for cutting a thin sheet material (Column 1 lines 5-15), a circular cutting blade having an axis (48), a diameter (Column 3 lines 5-8), a maximum thickness extending between a first and second lateral side (Column 3 lines 8-10), a cutting edge (41) defined by a first edge surface extending between the first lateral side and the cutting edge (42) and a second edge surface extending between the second lateral side and the cutting edge (43), the cutting edge is symmetrical in a cross-sectional plane extending perpendicularly between the first and second lateral side

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surfaces and through the axis (41, the entire blade may not be symmetrical but the circular cutting edge is), the cutting edge includes an edge angle defined by the first and second edge surfaces that is not less than  $40^\circ$  and not greater than  $50^\circ$  ( $D+C=45^\circ$ ), the diameter of the cutting blade is not greater than 15 times the maximum thickness (Column 3 lines 5-8), and a handle having a hand grip portion (Column 1 lines 5-15, clearly states the "the blade is adaptable for use on most commercially available can openers" and "manual". It is inherent that a handle with a gripping portion would be present in a manual can opener) and an axel on which the blade is pivotally mounted (32), the cutting blade and the manner in which it is mounted on the handle is capable of following multi-directional selectively chosen patterns (Fig. 4), and the cutting blade and the manner in which it is mounted on the handle is capable be manually maneuvers in a directionally unrestricted manner across a thin sheet material (Fig. 4).

It is noted that then intended use of a can opener is not the only use for the tool. A traditional can opener blade could be held in an unconventional manner and slice a piece of paper. This method of use may not be taught but the can opener is still perfectly capable of performing the task. It also noted that the Richter (5,758,426) teaches a blade angle with  $45^\circ$  and an entire blade that is symmetrical along the claimed axis.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sikorski (4,205,438) in view of Wilson (1,775,380), Belcourt (4,733,472), and Richter (5,758,426) also with evidence patent Rockower et al. (5,171,106). Sikorski discloses the invention including a handle having a grip portion (11), a replaceable cutting blade assembly (45) having a cutting blade rotatably mounted on a clip (46), the cutting blade includes a thickness, a diameter not greater than fifteen times the thickness (Fig. 7), a cutting edge having a cutting angle (48), and the clip is selectively attachable to the handle to permit replacement (29).

However, Sikorski fails to disclose the edge angle is between 40°-50°. Rockower et al. provides evidence that the edge angles of cutting wheels are raised and lowered depending on a specific task (Figs. 6-11, and Column 7 lines 23-52).

Wilson (Fig. III), Belcourt (C+D), and Richter (Column 4 line 1) all teach that it is old and well known in the art of cutting blades/wheels to incorporate an edge angle of between 40°-50°.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Sikorski with an edge angle of between 40°-50°, as taught by Wilson, Belcourt, and Richter, to allow for the user to perform an alternate cutting task.

### ***Response to Arguments***

6. Applicant's arguments with respect to claim 13 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jung et al ('231, '502, '503, and '104).

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

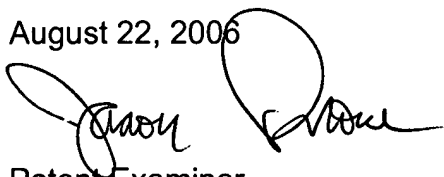
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is (571) 272-4513. The examiner can normally be reached on 7:00-4:30, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

August 22, 2006

A handwritten signature in black ink, appearing to read 'Jason Prone', is written over the typed name.

Patent Examiner  
Jason Prone  
Art Unit 3724  
T.C. 3700